

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Farid Morceli, ) No. CV 11-1225-PHX-GMS (ECV)

Petitioner,

vs.

Katrina S. Kane,

## Respondent.

No. CV 11-1225-PHX-GMS (ECV)

## **REPORT AND RECOMMENDATION**

TO THE HONORABLE G. MURRAY SNOW, UNITED STATES DISTRICT JUDGE

15 On June 22, 2011, Petitioner Farid Morceli filed a *pro se* Petition for Writ of Habeas  
16 Corpus pursuant to 28 U.S.C. § 2241 (Doc. 1) alleging that immigration officials are holding  
17 him in detention pending his removal to Algeria, but that his removal is not reasonably  
18 foreseeable. Petitioner seeks an immediate release from custody on the grounds that his  
19 indefinite detention is not authorized by law because there is no prospect that he will be  
20 removed in the reasonably foreseeable future. See Zadvydas v. Davis, 533 U.S. 678 (2001)  
21 (when there is no reasonable likelihood that a foreign government will accept an alien's  
22 return in the reasonably foreseeable future, the INS may not detain the alien for more than  
23 the presumptively reasonable period of six months). In an Order (Doc. 4) filed on August  
24 30, 2011, the District Court Judge reviewed the petition and directed Respondent to file an  
25 answer. Respondent filed a Response to Petition for Writ of Habeas Corpus (Doc. 9) on  
26 September 20, 2011.

27 On February 14, 2011, Respondent filed a Notice to the Court and Suggestion of  
28 Mootness (Doc. 12) in which she asserts that Petitioner was released under an Order of

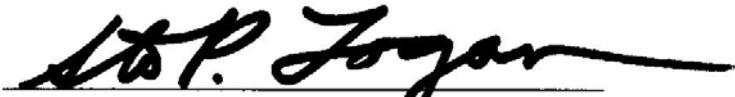
1 Supervision on September 13, 2011. Attached to the filing, Respondent provides a copy of  
2 the Order of Supervision establishing that Petitioner has been released from custody under  
3 the terms of the order. Id. Because Respondent's evidence demonstrates that Petitioner has  
4 obtained the relief he sought in his petition, this action is moot. See Picrin-Peron v. Rison,  
5 930 F.2d 773, 775 (9<sup>th</sup> Cir. 1991) (alien's habeas petition challenging the length of his  
6 detention pending deportation was rendered moot when petitioner was released from custody  
7 and paroled into the United States). The court will therefore recommend that the Petition  
8 for Writ of Habeas Corpus be dismissed.

9 **IT IS THEREFORE RECOMMENDED:**

10 That the Petition for Writ of Habeas Corpus (Doc. 1) be **DISMISSED** without  
11 prejudice.

12 This recommendation is not an order that is immediately appealable to the Ninth  
13 Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of  
14 Appellate Procedure, should not be filed until entry of the district court's judgment. The  
15 parties shall have 14 days from the date of service of a copy of this recommendation within  
16 which to file specific written objections with the Court. See, 28 U.S.C. § 636(b)(1); Fed. R.  
17 Civ. P. 6(a), 6(b) and 72. Thereafter, the parties have 14 days within which to file a response  
18 to the objections. Failure to timely file objections to the Magistrate Judge's Report and  
19 Recommendation may result in the acceptance of the Report and Recommendation by the  
20 district court without further review. See United States v. Reyna-Tapia, 328 F.3d 1114, 1121  
21 (9<sup>th</sup> Cir. 2003). Failure to timely file objections to any factual determinations of the  
22 Magistrate Judge will be considered a waiver of a party's right to appellate review of the  
23 findings of fact in an order of judgment entered pursuant to the Magistrate Judge's  
24 recommendation. See Fed. R. Civ. P. 72.

25 DATED this 28<sup>th</sup> day of February, 2012.

26   
27

28 Steven P. Logan  
United States Magistrate Judge